

REMARKS

The application includes claims 1-5, 38-41, and 65-69 prior to entering this amendment.

The examiner rejects claims 1-5 and 38-41 under 35 U.S.C. § 102(e) as being anticipated by Florencio et al. (U.S. Patent 6,226,041). The examiner rejects claims 65-69 under 35 U.S.C. § 103(a) as being unpatentable over Florencio.

The applicant amends claims 1-2, 5, and 38-39.

The application remains with claims 1-5, 38-41, and 65-69 after entering this amendment.

The applicants add no new matter and request reconsideration.

Claim Rejections Under §§ 102 and 103

The examiner rejects claims 1-5 and 38-41 and claims 65-69 as old and obvious, respectively, over Florencio. The applicant disagrees particularly as he has amended the claims.

With respect to independent claims 1 and 38, the examiner alleges that there is no distinction between the recited overlay frame and the second region of an encoded image frame as claimed. The examiner concludes that the recited second and overlay region mean the same thing. The examiner cites to the present application's specification page 19, lines 1-11 and figure 8 to support his conclusion. The passage, however, fails to support the examiner's conclusion. The passage reads as follows.

"...reference to the frames 114, 116, and 118 of Figure 8 and to an EPG as the overlay frame. It is understood, however, that this discussion is applicable to video frames having a different formatting and to different overlay frames. Generally, in the discussed example, the box 136 blends the EPG with the regions 122a-122c of the frames 114, 116, and 118. Because the regions 122a-122c are encoded independently of the regions 120a-120c, the box 136 need only decode and re-encode the regions 120a-120c, it can have significantly less processing power than, and thus can be significantly less expensive than, the conventional set-top box 11 (Figure 2), which must decode and re-encode the frames in their entirety to perform this blending.

The set-top box 136 includes a processing circuit 138, which receives an encoded, multiplexed broadcast video signal from a cable or satellite company. In response to a channel-select signal from a command decoder 140, a channel selector 142 demultiplexes the broadcast signal and provides a selected video-channel signal to an overlay-region decoder 144."

The applicants see nowhere in this passage where the overlay frame is taught as being the same as either the first or second region of the image frame. It is true that responsive to a user's desire to view an overlay frame such as an EPG, the decoder may decode the overlay frames and the first and second regions of the image and may thereafter blend or modify the first region of the image frame with the overlay frame. But the overlay frame is distinct from the first (or second) region of the frame as received and after blending or modifying the second region and the overlay frame are just that, blended or modified, leaving neither as they were as originally received. To make the distinction crystal, the applicant amends claims 1 and 38 to define the overlay frame as *distinct from the encoded image frame including the first and second regions in the signal*.

The examiner further alleges that "Florencio makes abundantly clear that the logo is inserted in the compressed, i.e., encoded bitstream." But Florencio describes a video decoder 106 that decodes the compressed digital video bitstream to generate a decoded video stream. Column 2, lines 7-8. It is only after the video decoder 106 decodes the compressed digital video stream that the video logo inserter 108 generates and inserts the logo or other imagery. "Video logo inserter 108 inserts a logo or other desired imagery into the decoded video stream to generate a video stream with an inserted logo." Column 2, lines 13-15. In other words, what is "abundantly clear" is that Florencio's video logo inserter 108 inserts the logo into the *decoded* video stream, and not the compressed, or encoded, bitstream as proposed by the examiner.

The examiner further asserts that the "logo inserted data is encoded data that can be independent of the encoded data in the original compressed bitstream or can be blended at the 'transformed' level (i.e., compressed/encoded level)." The examiner concludes that Florencio's compressed bitstream includes both the first region and the second region (i.e., the overlay frame). The examiner's conclusion appears to follow from his first argument that the first (or second) region of the image frame is "the same" as the overlay frame. As we have developed above, this argument is in error particularly as the applicants have amended the claims 1 and 38 to indicate that the overlay frame is distinct from the image frame's first and second regions in the received signal.

Claim 1 now recites receiving *a signal including an overlay frame and an encoded image frame having first and second regions*. Claim 38 includes similar limitations. The image frame is the distinct part of the signal that includes first and second regions. Claim 1 further recites

decoding the overlay frame and the first region of the image frame, modifying the decoded first region of the image frame to include the decoded overlay frame, and re-encoding the modified first region of the image frame. Claim 38 includes similar limitations. These amendments should make clear that the overlay frame is modified or otherwise blended into a first region of an image frame, eliminating the need to decode the entirety of the frame and consequently, saving time and money by reducing complexity.

By contrast, Florencio discloses a system that allows local broadcasters to insert logos and other imagery into *only disposable frames* of a video signal. That is, Florencio does not disclose inserting its logo in regions of image frames by decoding only those regions of the frame that will be blended with the overlay frame. Florencio identifies only disposable frames in the compressed digital video bitstream that correspond to the blocks and macroblocks identified as affected by the logo. Column 3, lines 33-39. The identified disposable frames are replaced with corresponding logo-inserted encoded data. Column 3, lines 37-38.

The examiner takes official notice the elements recited in claims 65-6 and 68 noting that “storing is a post solution activity that is notoriously well known in the art.” The question is not whether storing is a notoriously well known activity but whether *a processor operable to store the re-encoded modified first region and the second region* (claim 65), *a buffer to store the re-encoded modified first region and the second region* (claim 66), or *storing the re-encoded modified first region and the second region* (claim 68) is a fact capable of “instant and unquestionable demonstration” as is required by MPEP § 2144.03 to take Official Notice. The applicants ask the examiner to provide an adequate reference rendering old or obvious the recited invention, if such a reference exists.

With regard to claim 67, the examiner takes official notice that Florencio *implies* that when the logo-inserted data is not intra-encoded, that it is inter-encoded, which necessitates identifying motion vectors. The applicants point out that a reference must show every element and limitation of a claim to render it old or obvious. That the reference implies an element or limitation of a claim is insufficient. It is novelty or obviousness that is the legal standard, not implication. Further, the examiner again takes official notice of a fact not capable of “instant and unquestionable demonstration” as is required by MPEP § 2144.03. The applicants ask the examiner to provide an adequate reference rendering old or obvious the recited invention, if such a reference exists.

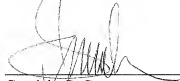
With regard to claim 69, the examiner acknowledges that Florencio is silent with respect to re-encoding the modified first region responsive to rate controlling, but then asserts that Florencio implies this limitation because of the "desirability of avoiding full decoding and re-encoding." As with the examiner's rejections of claim 67, implication is not a legal standard to support a rejection nor is implication sufficient to take official notice of the limitation recited. The applicants ask the examiner to provide an adequate reference rendering old or obvious the recited invention, if such a reference exists.

Conclusion

The applicants request reconsideration and allowance of all remaining claims. The applicants encourage the examiner to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

MARGER JOHNSON & McCOLLOM, P.C.



Graciela G. Cowger
Reg. No. 42,444

MARGER JOHNSON & McCOLLOM, P.C.
210 SW Morrison Street, Suite 400
Portland, OR 97204
503-222-3613

Customer No. 20575